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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,511	08/02/2001	Kazuo Sakuma		7910

7590 10/12/2005  
Kazuo Sakuma  
2119-1, Kaminayoro, Shimokawa-chou, Kamikawa-gun  
Hokkaidou, 098-1216  
JAPAN

EXAMINER

ZEMAN, ROBERT A

ART UNIT PAPER NUMBER

1645

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/826,511

Applicant(s)

SAKUMA, KAZUO

Examiner

Robert A. Zeman

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_



### **DETAILED ACTION**

Claims 1-8 are pending and currently under examination.

#### ***Claim Objections***

Claim 4 is objected to for using abbreviations without defining said abbreviations upon its first recitation.

Claim 6 is objected to because of the following informalities: said claim contains an obvious typographical error. "organosol" should read "organosolv". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-3 recite improper Markush language. Said claims should read "are selected from the group consisting of..." instead of "are selected from".

Claim 5 is rendered vague and indefinite by the use of the phrase "wherein the active constituents are lignosulfonic acid sodium salt **or** lignosulfonic acid sodium salt acetate". It is unclear what is meant by said phrase since the preamble refers to a plurality of active constituents but the claim recites only a choice of single active constituents.

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Claims 4-5 and 7 are rendered vague and indefinite by the term "anti-AIDS virus activity". It is unclear which viral strains are meant to be encompassed by said language as it is not explicitly set forth in the specification. Additionally, it is unclear to what process the term "activity" refers.

Claim 8 recites the limitation "guaiac resin" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 is rendered vague and indefinite by the use of the phrase "is guaiac resin including guaiacol...". It is unclear whether guaiacol must be present in the claimed resin or whether it is being recited as an example (which in itself renders the claim indefinite).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by the Aldrich Chemical Company (Aldrich Catalog, Aldrich Chemical Company, Inc, Milwaukee, WI, 1994, pages 545, 743 and 866.).

The Aldrich catalog disclose the chemicals guaiacol, lignin sulfonic acid, 2, 6-dimethoxyphenol, 3, 5-dimethoxyphenol, lignosulfonic acid sodium salt, lignosulfonic acid sodium salt acetate and lignin organosolv propionate (see pages 545, 743 and 866). It should be noted that while the cited reference does not disclose any antimicrobial activity to be associated

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with said chemicals, it is deemed that said antimicrobial activities are inherent properties of said chemicals. Consequently, since the chemicals disclosed in the Aldrich catalog are the same chemicals claimed as “antimicrobial agents” in the instant claims, they are deemed to have the same chemical, biological and immunological properties. Hence, the cited reference anticipates all the limitations of rejected claims.

Claims 1-2, 4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by the Sigma Chemical Company (Sigma Catalog, Sigma Chemical Company, 1995, page 958.).

The Aldrich catalog discloses the chemical syringaldehyde (see pages 958). It should be noted that while the cited reference does not disclose any antimicrobial activity to be associated with syringaldehyde, it is deemed that said antimicrobial activities are inherent properties of syringaldehyde. Consequently, since the syringaldehyde disclosed in the Sigma catalog is the same as the “antimicrobial agents” in the instant claims, they are deemed to have the same chemical, biological and immunological properties. Hence, the cited reference anticipates all the limitations of rejected claims.

### ***Conclusion***

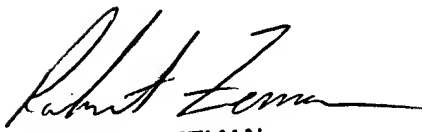
No claim is allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Zeman whose telephone number is (571) 272-0866. The examiner can normally be reached on Monday- Thursday, 7am -5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (571) 272-0864. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**ROBERT A. ZEMAN**  
**PATENT EXAMINER**

October 6, 2005